

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

Construction Funding Corporation, and  
Scott C. Michaels, Designated Broker,

Respondents.

NO. C-04-014-04-FO01

FINAL ORDER

**I. DIRECTOR'S CONSIDERATION**

A. Review: This matter has come before the Director to review the Statement of Charges and Notice of Intent to Revoke License, Impose Fines, and Prohibit from Participation in the Mortgage Broker Industry (Statement of Charges) entered by the Director through her designee, Acting Assistant Director Chuck Cross, on February 24, 2004.

A copy of the Statement of Charges is attached and incorporated into this order by this reference. In every attempt to serve Respondents, the Statement of Charges was accompanied by a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Construction Funding Corporation and Scott C. Michaels.

Statutory Service: Pursuant to RCW 19.146.260, on April 16, 2004, the Department: 1) mailed the Statement of Charges by Certified Mail to Construction Funding Corporation's Registered Agent, CT Corporation System, which CT Corporation System received on April 19, 2004; and 2) sent the Statement of Charges to Construction Funding Corporation by Registered Mail to Construction Funding Corporation's last known address: 425 North Martingale Road Suite 1350, Schaumburg Illinois, 60173. The Registered Mail was returned by the US Post Office as "Not Deliverable as Addressed Unable to Forward." The Department did not receive any request for administrative hearing.

Other Attempted Service: The Department attempted to serve the Statement of Charges on Respondents by regular US Mail on March 6, 2004, at its last known address, however that attempt failed, and the mailing was returned to the Department as "Moved Left No Forwarding Address."

1 B. Record of Proceedings: The record presented to the Director for her review and for entry of a final  
2 decision included the Statement of Charges, the Notice of Opportunity to Defend and Opportunity for Hearing, the  
3 blank Application for Adjudicative Hearing, and documentation of service.

4 C. Factual Findings and Grounds For Order: Pursuant to RCW 34.05.440(1), the Director hereby adopts  
5 the Statement of Charges, which is attached hereto.

## 6 II. FINAL ORDER

7 Based upon the foregoing, and the Director having considered the entire record and being otherwise  
8 fully advised, NOW, THEREFORE:

9 A. IT IS HEREBY ORDERED, That:

- 10 1. The mortgage broker license held by Respondent Construction Funding Corporation is revoked;  
11 and
- 12 2. Respondent Scott C. Michaels is prohibited from participation in the conduct of the affairs of  
13 any licensed mortgage broker for a period of five (5) years; and
- 14 3. Respondents, jointly and severally, pay the annual assessment due, in the amount of \$530.86; and
- 15 4. Respondents, jointly and severally, pay an examination fee of \$286.68, calculated at \$47.78 per  
16 hour for each staff hour devoted to the investigation (6 hours); and
- 17 5. Respondents, jointly and severally, pay a fine of \$6000.00 calculated at \$100.00 per day for 30  
18 days for:
- a) One violation of RCW 19.146.205(4); and
  - b) One violation of RCW 19.146.265.

19 B. Reconsideration: Pursuant to RCW 34.05.470, Respondents have the right to file a Petition for  
20 Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of  
21 the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington  
22 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the  
23 Final Order upon Respondents. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a  
24 Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

1 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is  
2 filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by  
3 which it will act on a petition.

4 C. Stay of Order: The Director has determined not to consider a Petition to Stay the effectiveness of this  
5 order. Any such requests should be made in connection with a Petition for Judicial Review made under chapter 34.05  
6 RCW and RCW 34.05.550.

7 D. Judicial Review: Respondents have the right to petition the superior court for judicial review of this  
8 agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for Judicial  
9 Review, see RCW 34.050.510 and sections following.

10 F. Service: For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service  
11 is effective upon deposit of this order in the U.S. mail, declaration of service attached hereto.

12  
13 DATED this 14<sup>th</sup> day of July, 2004.

14  
15 STATE OF WASHINGTON  
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

17  
18 /s/ \_\_\_\_\_  
Helen P. Howell  
19 Director